



LAW DEPARTMENT

MEMORANDUM

September 29, 2009

To: Members of the Springfield Area Chamber of Commerce
From: Dan Wichmer, City Attorney
Re: Clarifications of specific referendum questions

The Chamber staff asked me to provide this memo in an attempt to clarify several questions that have arisen regarding the ballot language for the November 2009 referendum and the sunset timeline.

Issue: Difference between February 2009 referendum and November 2009 referendum.

In the February 2009 election, the proposed 1-cent increase for five years was set at that level to create sufficient revenue to restore the pension fund to a healthy level within a five-year time frame.

The ballot language included a sunset provision established by the City because there was no plan to seek a continuation after five years. Five years of the 1-cent sales tax level would have been sufficient to fund the plan.

In November, the referendum is for a lesser amount of $\frac{3}{4}$ cent. The City and the Citizens Task Force have been very up front in informing voters that this rate would most likely require more than five years to reach a healthy funding level.

The City did not specify a five-year sunset provision on the November referendum because it is so unlikely that the fund will reach a healthy, sustainable level in five years at the $\frac{3}{4}$ -cent rate.

The state law applies in the same way to either referendum. Nothing has changed in that regard.

At the end of five years, voters will decide whether to repeal it or continue it.
It cannot continue past five years without going back to a vote of the people.

Issue: Distinction between Repeal or Continue the sales tax.

The state-enabling legislation is written in a confusing way. At the end of five years, voters will be asked whether they want to repeal the tax. So, a "yes" vote will be a vote to repeal, while a "no" vote would be a vote to continue it.

If you think about it, it's not in the City's best interest to have the ballot language require a "no" vote to continue the tax (assuming it is necessary). However, this is the requirement from the State.

The ballot language requirement for a municipal public-safety sales tax (such as the

pension sales tax) is different from the ¼-cent Capital Improvement Tax or the 1/8-cent Transportation Tax – each has its statute. The City has no control over the ballot language requirement. A change in this ballot language requirement would require a change to the State statute.

The important point to remember is that voters will have the option at the end of five years to make a decision about this sales tax.

Issue: 100-percent funded status

The ballot language makes reference to the sales tax sunseting when it reaches a 100-percent fully funded status. This referendum covers only five years. This provision is included to protect voters. If the pension fund were to reach a 100-percent funded status before the five-year period ends, it could sunset earlier than five years. Again, there is an extremely small likelihood that the pension fund could reach that level within the five-year period.

This language does not mean that the sales tax will continue until the pension fund reaches 100 percent. At the end of five years, the fund experience will be reassessed and new ballot language will be developed when voters have the option to repeal or continue it. We believe that is a more realistic way to determine what will ultimately constitute a healthy funding level, rather than trying to predict that now for 10 years into the future.

This language simply means that within this initial five-year period, the sales tax would sunset early if the pension fund did reach 100 percent.

Thank you for your interest and support of this issue. Please don't hesitate to contact our staff if you have additional questions.

CC: Greg Burris
Louise Whall